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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/624,698

07/22/2003

Moritz Bauer

02/044 SGL

7037

23416

7590

03/27/2006

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EXAMINER

DIXON, MERRICK L

ART UNIT

PAPER NUMBER

1774

DATE MAILED: 03/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/624,698	BAUER ET AL.	
	Examiner	Art Unit	
	Merrick Dixon	1774	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


MERRICK DIXON
PRIMARY EXAMINER

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Art Unit: 1774

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krenkel et al(US 6668985 B2).

The cited reference teaches the claimed ceramic brake liner made of 10 mm carbon fiber reinforcement, similarly aligned, and silicon carbide – col 1, lines 12-52; col 3, lines 1-9; col 3, lines 36-41; col 2, lines 60-65 .

It is submitted as the reference discloses silicon mass fraction(claim 1; col 5, lines 23-24, it would have been obvious to the skilled artisan to discover such optimum workable ranges of the silicon, in the absence of unexpected results- In re Aller, 105 USPQ 233.

The reference teaches layers of unidirectional positions and similar fiber amounts as required by claims 3-5- col 5, lines 1-5; col 5, line 64- col 6, line 3. concerning claim 2 , 6 and 7, the reference teaches specific amounts of carbon fibers(col 2, lines 50-65) and same fibers oriented at specific direction- col 5, lines 64- col 6, line 1, such directional arrangement and percentage amount would indeed encompass and include the claimed thermal conductivities as such orientations are respective to the disclosed friction surface. Concerning claim 11, the reference teaches adhesively bonding the liner to a plate- col 1, line 65- col 2, line 2. Concerning claims 8 and 9, the reference teaches the claimed silicon carbide- col 5, lines 22-25.

Art Unit: 1774

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over by Krenkel et al(US 6668985 B2) as applied to claims 1-9,11 above, and further in view of Dietrich et al(US 6261981 B1).

Dietrich et al further teaches that it is known in the art to drill/screw brake members together- col 5, lines 32-40. It is submitted it would have been within the art to utilize any number screws during such drillings same bonding.

4

Claims 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Withers et al(US 6051167).

Claims 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Withers et al(US 6051167). The cited reference teaches a method of making brake lining via arranging fibers with a binder, curing same, carbonizing the cured carbon material, densifying same and infiltrating the resulting material- fig 1b; col 1, lines 52-65; col 2, lines 33-55; col 3, lines 40-44; col 4, lines 1-21; col 6, lines 45-50. Concerning claims 13-16, it is submitted the particular material used during the process is of no patentable consequences which must be manipulatively distinct, ie. Affect the process in a manipulative sense- Ex parte Pfeiffer 1962 C.D. 408(1961). The reference teaches brake product as discussed above.

5

Art Unit: 1774

Applicant's arguments filed 1-9-06 have been fully considered but they are not persuasive. Applicants argue that increasing the cited Krenkel reference silicon content would have an adverse effect on the article's characteristics. The examiner respectfully remind applicants the office is in no position to experimentally determine whether or not in an article such as that at issue, the subject matter known is the same as that known in the prior art. Accordingly, in such instances, this shifts the burden to applicants who have the resources to make a clear distinction and to better experimentally define and identify the differences between the teachings as set forth by the references and the claimed invention.

6

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 1774

Applicants who wish to send a facsimile (draft copies) for the examiner's immediate review can do so by using the Examiner's personal fax number at 571-273-1520. The faxing of all papers must conform with the notice published in the Official Gazette, 1096 O.G. 30 (November 15, 1989). **NOTE: All facsimiles sent to the examiner's**

personal fax number should be in draft-forms and will be treated as informal.

Same facsimiles will not be entered in the related applications unless otherwise agreed and noted by the examiner.

The fax number for all other fascimile is 571-273-8300.

Information about **the status of an application** may be obtained from the Patent Information Retrieval system (**Private PAIR**).

Status inquires for **published applications** may be retrieved from either **Private PAIR** or **Public PAIR**. Questions about the PAIR system should be directed to the Electronic Business Center at **866-217-9197**.

Any questions concerning the instant communication should be directed to Examiner Dixon, at 571-272-1520, Mondays, Wednesdays and Thursdays, between 12 noon and 8 PM, eastern time .



Merrick Dixon

Primary Examiner

Group 1700